

REMARKS

Claims 1-12 and 20 are canceled. Claims 23-26 have been added, and thus, claims 12-19, and 21-26 remain in this application.

CLAIM REJECTIONS UNDER 35 USC § 102(b)

Applicants respectfully traverse the Examiner's rejection of claims 12-19 and 21 as being anticipated by Weiss et al (U.S. Pat. No. 5,727,791, referred to hereafter as "Weiss"), and have amended claim 12 to further clarify patentable subject matter over Weiss.

As amended, claim 1 provides a cylinder head gasket including, among other things, a distance layer having at least one recessed region extending into one side of the distance layer less than completely therethrough to a seal engaging bottom surface. The recessed region in the distance layer has a boundary region extending from the one side of the distance layer to the seal engaging bottom surface and completely surrounding the bottom surface. The recessed region receives a portion of a seal element in engagement with the seal engaging bottom surface, wherein the portion of the seal element is spaced from at least a portion of the boundary region to provide a void space between the seal element and the boundary region.

In contrast, and contrary to the Examiner's view of Weiss, the gasket provided in Weiss has a cover layer 5, which the Examiner is designating as a distance layer, with a raised portion projecting above the upper plane of the gasket, which in turn provides a concave portion, which the Examiner previously designated as a recessed region, but now has designated as the seal engaging bottom surface. So, the Examiner now refers generally to the regions identified by reference numerals 3 and 7 in Weiss as constituting the recessed region. Next, the Examiner states that the recessed region receives a portion of a seal element, with a portion the seal element engaging the bottom surface, with the portion also being spaced from at least a portion of the boundary region, with attention given to Figure 5, to provide a void space between the seal element and the boundary region.

With all due respect, and in view of the clarifying amendments, Weiss does not provide a recessed region in a distance layer as claimed by Applicant, nor does the seal

Appln. No.: 10/562,194
Reply to Office action of August 22, 2007

element in Weiss engage a seal engaging bottom surface of a distance layer while remaining partially spaced from a boundary region in the distance layer to provide voids between the seal element and the boundary region. As shown clearly in Figures 2 and 4 of Weiss, the layer 5 has a concave surface formed by a raised bead that is completely filled by seal material, and nothing else. There is no recessed region having a boundary portion extending from one side of the layer 5 to a seal engaging bottom surface. Accordingly, Weiss does not have recessed region in the layer 5 receiving a portion of its seal material in engagement with a seal engaging bottom surface, with the portion of the seal element being spaced from at least a portion of a boundary region in the layer 5 to provide a void space between the seal material and the boundary region. Applicants respectfully contend that to arrive at any other conclusion requires reading far more into Weiss than exists, with at least one an eye looking directly at Applicants' disclosure for assistance.

Accordingly, Applicants believe amended claim 12 defines patentable subject matter and to be in proper form for allowance. Such action is respectfully requested.

Claim 13 is ultimately dependant upon amended claim 12, and thus, is believed to define patent subject matter for at least the same reasons. Such action is respectfully requested.

Claim 14 is dependant upon amended claim 12, and further recites that the distance layer abuts the functional layer, and further, that the functional layer has an opening at least partially above the recessed region in the distance layer to receive the seal element therethrough in detached fashion.

Applicants have emphasized the term "abuts" above, and are of the belief that this term is clear and concise, without need for modification for one to understand its meaning. Abuts means to touch directly, and not to be operably communication or touching via an intervening layer, as the Examiner has indicated. Thus, Applicants believe the Examiner has failed to provide support for the rejection under anticipation, and further state that it would not be obvious to modify Weiss to arrive at the gasket construction claimed by Applicants. To do so would require severe modification to Weiss, including ridding Weiss of the layers 1''' in order to bring the layer 5 (designated by the Examiner as the distance layer) into abutment with the layer 1' (designated by the Examiner as being the functional layer).

Accordingly, Applicants believe claim 14 defines patentable subject matter and to be in proper form for allowance. Such action is respectfully requested.

Claims 15-17 are ultimately dependant upon amended base claim 12, and thus, are believed to define patent subject matter for at least the same reasons. Such action is respectfully requested.

Claim 18 has been amended to recite the seal element as being partially supported on the one side of the distance layer into which the recessed region is formed surrounding the recessed region.

In contrast, as noted above, the seal material in Weiss fills the concave portion of the raised bead formed in layer 5. However, the seal material is not supported by the side of the layer 5 surrounding the concave portion. This would require the seal material to be disposed between the layer 5 and the layer 1", which is not shown, nor believed desirable in the construction of Weiss.

Accordingly, Applicants believe amended claim 18 defines patentable subject matter and to be in proper form for allowance. Such action is respectfully requested.

Claim 19, which is dependant upon amended claim 12, has been amended to more clearly recite the claimed structure. As amended, claim 19 is believed to further define patentable subject matter over Weiss. Contrary to the Examiner's stated interpretation, given without any direct support from Weiss, Weiss does not provide a seal element as recited by Applicants, with the seal element being arranged in a recessed region without contacting an entire boundary region of the recessed region, and with the seal element being supported by a bottom surface of the recessed region.

The Examiner states that the seal element in Weiss is arranged in a recessed region without contacting boundary regions (e.g. end of 7 furthest from 3). There is no support for this conclusion by viewing Figure 5, other than the Examiner reading more into Weiss than exists. Contrary to this interpretation, Applicants believe this region would be particularly filled with sealing material, given that this appears to be the region requiring sealing.

Accordingly, Applicants believe amended claim 19 recites patentable subject matter and to be in proper form for allowance. Such action is respectfully requested.

Claim 21, which is dependant upon amended claim 12, has been amended to more clearly recite the claim structure, wherein at least one hollow channel is formed in the

functional layer with the hollow channel extending outwardly from the opening in open communication the opening and the seal element being partially received in the channel.

The Examiner originally states that the functional layer 1' in Weiss has an opening 2, recited in claim 14, and then suggests that the functional layer also has a hollow channel 2 in open communication with the opening. Applicants contend that the Examiner has reference a single feature in Weiss in an attempt to meet the separate and distinct structural limitations recited by Applicant. Accordingly, Applicants believe the Examiner has failed to provide a reasonable interpretation of the structure of Weiss in an attempt to arrive at Applicant's claimed structure.

Accordingly, Applicants believe amended claim 21 defines patentable subject matter and to be in proper form for allowance. Such action is respectfully requested.

CLAIM REJECTIONS UNDER 35 USC § 103

Claim 22 is ultimately dependant upon amended base claim 12, and thus, is believed to define patent subject matter for at least the same reasons over all the references cited, whether considered separately or in combination with one another. Such action is respectfully requested.

NEW CLAIMS

Claims 23 and 24 have been added, and claim 23 is directly dependant upon claim 14, and further recites that the opening in the functional layer is at least partially spaced from said seal element.

Claim 24 is directly dependant upon claim 12, and further recites that the seal engaging bottom surface is planar.

Aside from being dependant on claims believed to recite patentable subject matter, new claims 23 and 24 are believed to further recite patentable structure over all the references cited, whether considered separate or in combination with one another.

Accordingly, Applicants believe new claims 23 and 24 recite patentable subject matter and to be in proper form for allowance. Such action is respectfully requested.

New independent claim 25 has been added, and for at least some of the same reasons stated above in support of amended claim 12, Applicants contend that claim 25

Appln. No.: 10/562,194

Reply to Office action of August 22, 2007

recites patentable structure over all the references cited, whether considered separate or in combination with one another. Such action is respectfully requested.

New claim 26 is dependant upon new claim 25, and is believed to recite patentable subject matter further yet over all the references cited, whether considered separate or in combination with one another. Such action is respectfully requested.

It is believed that this application now is in condition for allowance. Further and favorable action is requested.

If the Examiner believes any issues remain, Applicants' attorney respectfully requests that the Examiner initiate a phone interview to resolve the issues in order to place the Application in condition for allowance. Applicants' attorney can be reached at (248) 433-7390.

The Patent Office is authorized to charge or refund any fee deficiency or excess to Deposit Account No. 04-1061.

Respectfully submitted,

DICKINSON WRIGHT PLLC

10-24-07

Date

/ John D. Wright /

John D. Wright, Registration No. 49,095
38525 Woodward Avenue, Suite 2000
Bloomfield Hills, Michigan 48304-2970
(248) 433-7390